



County of Los Angeles CHIEF EXECUTIVE OFFICE

Kenneth Hahn Hall of Administration
500 West Temple Street, Room 713, Los Angeles, California 90012
(213) 974-1101
<http://ceo.lacounty.gov>

WILLIAM T FUJIOKA
Chief Executive Officer

September 10, 2008

To: Supervisor Yvonne B. Burke, Chair
Supervisor Gloria Molina
Supervisor Zev Yaroslavsky
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

A handwritten signature in black ink, appearing to read "W. T. Fujioka", is written over the printed name and title.

Board of Supervisors
GLORIA MOLINA
First District

YVONNE B. BURKE
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

REPORT ON EMPLOYMENT DISCRIMINATION COMPLAINT PROCESS

On May 13, 2008, on motion of Supervisor Molina, the Board instructed the Chief Executive Officer (CEO) to report back by June 30, 2008 on: 1) the Office of Affirmative Action Compliance (OAAC) recommendations to improve monitored departments' compliance with the County Employment Discrimination Complaint Process (EDCP); and 2) identify the costs, opportunities for cost-savings, such as the reallocation of resources from the involved departments, and the efficacy of centralizing the investigative responsibilities of identified departments within the OAAC.

On July 28, 2008, our office requested an extension to August 31, 2008, to be able to fully assess the results of the OAAC survey and report back to your Board.

BACKGROUND

Under the EDCP, County departments have the fiduciary responsibility of investigating employment discrimination complaints in a fair and impartial manner. OAAC's role is to provide central monitoring and oversight of departments for all employment discrimination complaints filed against Los Angeles County. This process is known as the Monitoring Model. This includes complaints filed with external enforcement agencies such as the United States Equal Employment Opportunity Commission, the California State Department of Fair Employment and Housing, the courts, and any other government enforcement agency.

Under the Monitoring Model, OAAC's role is to assess the complaint jurisdiction; review investigation reports; and review proposed corrective action promptly when allegations are substantiated. The Monitoring Model is inherently a cumbersome and inefficient process because of the duplicate and redundant nature of the OAAC's role in reviewing and approving investigations that have already been reviewed by the department's supervisor and management. The multiple layers of review and approval by both the department and OAAC delay finalizing the investigations and contribute to creating case backlog. Another inherent

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problem is that OAAC Deputy Affirmative Action Compliance Officers (DCO) monitoring department investigations cannot validate or attest to the veracity of the investigations conducted by line departments. This is especially true because OAAC DCOs do not supervise the line investigators; they only review the final work product. Many departments require multiple layers of reviews and revisions of the investigative reports prior to submission to OAAC. The investigative and review process is also problematic when the investigators and/or supervisors do not possess adequate training and knowledge to properly analyze the theories of discrimination.

In recent years, OAAC has implemented shared services agreements with six County departments. Under shared services agreements, OAAC has contracts with the Department of Health Services, Fire Department, Department of Public Health, Department of Public Social Services and Department of Public Works wherein OAAC assumes responsibility for the investigations of all employment discrimination complaints filed against the department. The OAAC utilizes DCOs, who are full-time employees dedicated to conducting employment discrimination complaint investigations as a profession. This model is referred to as the Shared Services Model. Additionally, under the shared services agreement with the Sheriff's Department, OAAC assumes responsibility for complaint intake assessment only. Once the assessment has been made, cases are referred to the Sheriff's Equity Internal Affairs unit for investigation. The Shared Services Model has resulted in timely, thorough, and effective employment discrimination investigations. In FY 2007-08, under the Shared Services Model, approximately 83% of the caseload was less than 90-business days old. The specific breakdown of the caseload and case age is summarized in Table 1.

Table 1. Open Case Age of OAAC Shared Services Investigation Sections

OAAC INVESTIGATIONS	Business Days			Total
	≤ 90	91-180	180+	
Public Social Services	37	4	0	41
Health Services	107	2	2	111
Public Health	14	4	0	18
Public Works	10	9	3	22
Fire	10	8	5	23
Total:	178	27	10	215

OAAC AUDIT AND FINDINGS

To determine departmental compliance with the EDCP, OAAC conducted an audit of all monitored departments. The OAAC completed their audit and provided our office with their findings on August 21, 2008. Utilizing the following three parameters - high caseload volume, extended open case age, and prolonged closure rates - seven departments were identified as having a higher potential for exposing the County to risk and liability. Each of these departments experienced difficulties with all three parameters measured. The seven departments are as follows: Department of Children and Family Services, Probation Department, Department of Mental Health, Registrar-Recorder/County Clerk, Parks & Recreation, Internal Services Department, and Office of Public Safety. Table 2 reflects the open

case age in FY 2007-08 for the monitored departments. The seven aforementioned departments comprised 379 of the 454 total open monitored cases, or 83.5% of the total.

Table 2. Open Case Age of Monitored Departments

MONITORED DEPARTMENTS	Business Days			Total
	≤ 90	91-180	180+	
Children and Family Services	42	20	62	124
Probation	13	9	61	83
Mental Health	23	10	38	71
Registrar-Recorder/County Clerk	17	1	14	32
Parks & Recreation	12	11	6	29
Internal Services	10	5	10	25
Office of Public Safety	7	5	3	15
<i>Subtotal:</i>	124	61	194	379
All Others	30	10	35	75
Total:	154	71	229	454

Although monitored departments and staff assigned to conduct investigations are earnest in their work, common challenges identified from the audit were: 1) inadequate allocation of departmental resources; 2) staff retention and lack of permanency; and 3) inadequate training of investigative, supervisory, and management staff in theories of employment discrimination. The OAAC's audit disclosed that the majority of monitored departments utilize human resources staff that perform multiple human resources functions. Given the multiple job responsibilities of these staff, the investigation and reporting of complaints to OAAC is ancillary to their primary job duties. Furthermore, depending on their job classification, the investigators may not have the necessary authority to access different levels within the department, therefore leading to delays in the EDCP. Additionally, there are instances where department investigators are perceived as not maintaining objectivity due to their close involvement in other departmental human resources activities.

The seven affected departments expend approximately \$2.2 million annually to conduct decentralized investigations, of which \$1.7 million is attributable to departmental staff salary and employee benefits costs and \$0.5 million for OAAC monitoring services. Under a centralized Shared Services Model, OAAC's cost to investigate these complaints within the targeted 90-business days is approximately \$1.8 million annually plus \$0.2 million in one-time startup costs. Although the OAAC estimated cost to conduct investigations for these departments is less, no significant cost-savings would be realized because the majority of departments will need to keep most of these positions to perform their regularly assigned human resources responsibilities. A component of departmental and Shared Services EDCP costs are shown in Table 3.

Table 3. Departmental and Shared Services EDCP Cost Comparison

Monitored Department	Average Annual Intake	Current Model		Proposed Model
		Dept Staffing Cost*	OAAC Monitoring Costs**	Shared Services Cost
Children and Family Services	62	\$583,000	\$127,000	\$478,000
Probation	49	\$356,000	\$144,000	\$378,000
Mental Health	45	\$216,000	\$109,000	\$347,000
Registrar-Recorder/County Clerk	23	\$144,000	\$54,000	\$177,000
Parks & Recreation	22	\$92,000	\$32,000	\$170,000
Internal Services	20	\$172,000	\$52,000	\$154,000
Office of Public Safety	10	\$102,000	\$26,000	\$78,000
Total	231	\$1,665,000	\$544,000	\$1,782,000

* Staffing cost based on reported time utilization.

** Budgeted amount for FY 2008-09 for OAAC monitoring services.

In conclusion, our office is in agreement with the OAAC's finding that the Shared Services Model is the optimal model because it improves the investigation process, ensures compliance with OAAC risk management protocols, and leads to long-term cost-savings. The end result is greater accountability and opportunities to minimize risk and liability to the County.

RECOMMENDATIONS

1. OAAC should assume responsibility for employment discrimination investigations for monitored departments, focusing initially on the following departments: Department of Children and Family Services, Probation Department, Department of Mental Health, Registrar-Recorder/County Clerk, Parks & Recreation, Internal Services Department, and Office of Public Safety. Departments will be responsible for completing current outstanding investigations with OAAC's assistance and supervision. The OAAC assumes responsibility for investigating all new complaints. Departments and OAAC may utilize existing staff in the transition from the Monitoring Model to the Shared Services Model;
2. Our Office will work with the OAAC and client departments to: address staffing and budget issues, including a transition plan identifying work strategies to eliminate any backlog; identify funding sources necessary to implement the Shared Services Model; and reallocate existing staff upon transition to the Shared Services Model;
3. OAAC will work with all other departments interested in transitioning to the Shared Services Model;

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4. OAAC will implement an enhanced case management compliance reporting procedure and provide the Board of Supervisors, the CEO and Department Heads with a report on outstanding investigations every quarter;
5. OAAC will provide an annual evaluation report to the Board of Supervisors and the CEO on the progress of monitored departments' compliance with the EDCP; and
6. OAAC, in conjunction with the Department of Human Resources (DHR), will develop an Employment Discrimination Investigation Training Program for County investigators through the DHR Learning Academy to enhance skills and develop new investigator candidates.

If you have any questions or need additional information, please contact me, or your staff may contact Gevork Simdjian at (213) 893-9736.

WTF:ES
GS:MG:ef

c: Office of Affirmative Action Compliance
Department of Human Resources
Executive Officer, Board of Supervisors